IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.Rev.Pet.No. 228 of 1999()

CA.89/1993 of SESSIONS COURT, KOTTAYAM
CC.180/1989 of CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM
.....

REVN. PETITIONER: APPELLANT/ ACCUSED NO.3.

BALACHANDRAN, S/O. HARIDAS,
KOLAPARAMBU VEEDU
PARALKARA, VAZHAPPALLY WEST VILLAGE,
CHANGANACHERRY.

BY ADV. SRI.RAJEEV V.KURUP
SRI.C.D.SREENIVAS

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.SANTHOSHKUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.228/1999

ORDER ON CRL.MP. 834/1999 IN CRL.RP. 228/1999

DISMISSED

08.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J.

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Crl.R.P.No.228 of 1999(B)

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Dated this the 8th day of August, 2007

O R D E R

The revision petitioner is the third accused in C.C.No.180/1989, in the file of the Chief Judicial Magistrate, Kottayam, with respect to the offence under Section 394 read with Section 34 of the Indian Penal Code.

2. The prosecution allegation is that on 08/07/1989, at about 3.45 p.m., the third accused/revision petitioner being the driver of an auto rickshaw along with the first and second accused sitting in the passengers seat, waited on the side of Kottayam-Karukachal public road and when the de facto complainant/PW.1 got down from the bus and started walking through the road, the auto rickshaw was taken near to her and the first accused stepped down and snatched away the gold chain worn by PW.1 and all the accused sped away in the auto rickshaw. The then value of the gold chain is mentioned as Rs.5,400/-.

3. The evidence adduce in the matter consisted of the testimony of PWs.1 to 15 and Exts.P1 to P13 and MOs.I to V. The third

accused was arrested on 19/10/1990. The rest of the accused were arrested earlier. The trial court convicted the accused and sentenced the first accused to undergo rigorous imprisonment for two years and the second and third accused were sentenced to undergo rigorous imprisonment for one year. The appellate court confirmed the conviction and sentence.

4. Another bench of this Court in Crl..R.P.No.204/1999, as per order, dated 22/11/2006, considered the revision petition filed by the first accused and reduced the sentence to undergo rigorous imprisonment for six months. The existence of the present revision petition filed by the third accused probably was not noted at that time. It is seen that the second accused has not filed any revision petition. Considering the evidence adduced in the matter, I find that the guilt of the first accused stands established and the common intention on the part of the second and third accused also from the evidence of the occurrence witnesses and the Section 27 recovery of the gold chain. In the circumstances, I find no reason to deviate from the findings of the courts below. The conviction is confirmed.

5. The counsel for the revision petitioner submits that the incident is of the 1989 and that so many years have elapsed since the commencement of the proceedings and that the accused has been facing the ordeal of prosecution for so long and that his whole family is depending on his income; and has sought for modification of the sentence.

In the circumstances and considering the plea of the revision petitioner, the sentence is modified to rigorous imprisonment for one month and to pay a fine of rupees five thousand and in default to undergo rigorous imprisonment for fifteen days more.

The criminal revision petition is disposed of accordingly.

Sd/-
K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.R.P.No.228 of 1999(B)

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O R D E R

8th August, 2007